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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/823,579 | 04/14/2004 | Dan Anthony Balogh | 29250-002026/US | 6233 |

7590 05/21/2009
HARNESS, DICKEY & PIERCE, P.L.C.
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Reston, VA 20195

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| EXAMINER |
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CHO, HONG SOL

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| ART UNIT | PAPER NUMBER |
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2419

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| MAIL DATE | DELIVERY MODE |
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05/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/823,579 | Applicant(s) BALOGH ET AL. | |
| | Examiner Hong Cho | Art Unit 2419 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on 3/17/09. Claims 1-40 are pending in the instant application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahmavaara et al (US 7359347), hereinafter referred to as Ahmavaara.

Re claims 1 and 11, Ahmavaara discloses receiving at a first network controller operating according to a first radio technology, a message relay request from a mobile station for which the first network controller is handling a packet switched call, forming a relay message to include an embedded message for conveying a switch in radio

technology and sending the relay message to a second controller operating according to a second radio technology over a tunneling medium (column 3, line 51 to column 4, line 7; column 7, line 60 to column 8, line 6).

Re claims 2, 3 and 12, Ahmavaara discloses a message relay request including an origination message for originating a call at the second network controller operating according to a second radio technology (figure 2, column 6, lines 36-45).

Re claims 4, 5 and 13, Ahmavaara discloses a message relay request including an identifier identifying the message relay request as a message relay request and an identifier of a packet data serving node handling the packet switched call of the mobile station (column 2, lines 1-20).

Re claims 6 and 16, Ahmavaara discloses receiving a relay message, from the second controller, including a channel assignment message, the channel assignment message indicating a channel assigned to the mobile station for communicating with the second network controller; and sending a message relay response to the mobile station that includes the channel assignment message (column 5, lines 52-61).

Re claims 7 and 15, Ahmavaara discloses requesting handoff of the mobile station to the second radio technology (column 2, lines 50-55).

Re claims 8-10, 17 and 18, Ahmavaara discloses requesting transition of the packet switched call to either a packet switched call or a circuit switched call (column 2, lines 50-63).

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Re claim 14, Ahmavaara discloses establishing a signaling relationship with the identified packet data serving node such that the second network controller receives packetized traffic destined for the mobile station (figure 3a).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(b) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 19-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Guilford et al (US 20020087674), hereinafter referred to as Guilford.

Re claims 19, 29, 34 and 40, Guilford discloses sending at least one message identifying wireless elements in use by the wireless unit and wireless elements available to the wireless unit for each of a plurality of network types and receiving a selection of at least one wireless element from the wireless unit (paragraphs [0067], [0070] and [0071]).

Re claims 20-23 and 30-33, Guilford discloses receiving at least one of an identifier of a network type of the wireless elements available to the wireless unit, an available wireless element for each of the at least one other network and an indicator of whether the wireless element in use by the wireless unit can relay messages to the selected wireless element (paragraph [0069]).

Re claims 24-28 and 35-39, Guilford discloses the wireless unit communicates with the current wireless element its choice of the selected wireless element to subsequently relay messages (figure 7b, element 98).

Response to Arguments

6. Applicant's arguments filed on 3/17/09 have been fully considered but they are not persuasive.

The applicant argues that Ahmavaara fails to disclose sending the relay message over a tunneling medium to a second controller operating according to a second radio technology by stating that no tunneling medium, or other type of direct connection, takes place between the first network controller (7) and the second network controller (11). The examiner respectfully disagrees. It is right that there is no network connection between the first network controller (7) and the second network controller (11), but there is a direct communication line between the first network controller (7) and the second network controller (15) in figure 1, where the serving RNC sends a request message to the MSC node (15).

The applicant further argues that Guilford fails to disclose sending at least one message identifying wireless elements in use by a wireless unit and wireless elements available to the wireless unit for each of a plurality of network types. The examiner respectfully disagrees. Guilford discloses sending a service request message that results in identifying wireless elements in use by a wireless unit and wireless

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elements available to the wireless unit for each of a plurality of network types and determining optimal platform to serve the user's request (figure 7b, paragraphs [0070 and [0071]]).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087. The examiner can normally be reached on Mon-Fri during 7 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hong Cho/
Primary Examiner, Art Unit 2419